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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,805	01/25/2008	George Bowen	02867	4634
987	7590	03/15/2010		
SALTER & MICHAELSON THE HERITAGE BUILDING 321 SOUTH MAIN STREET PROVIDENCE, RI 029037128			EXAMINER MORROW, JASON S	
			ART UNIT 3612	PAPER NUMBER
			NOTIFICATION DATE 03/15/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/588,805

**Applicant(s)**

BOWEN, GEORGE

**Examiner**

Jason S. Morrow

**Art Unit**

3612

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4, 5, 7, 8, 10, 11, 20-25 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7, 8, 10, 11, 20-25, 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date 3/2/2010.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 21-25 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 21, lines 12 and 13, applicant claims the lid having first and second contiguous but differently sloping face surfaces including a foot rest surface and a calf rest surface. However, it appears from figures 6 and 7 that the same surface is used as both the calf rest and foot rest surface.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 7, 8, 10, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaus et al. (US Patent 6,527,327) in view of Japanese Publication 4-60726.

Gaus et al. discloses a rest (2) for use in a vehicle comprising a housing having a sloping upper face (14) and means (9) for adjusting the position of the housing relative to the vehicle. The housing defines a storage space (19) and has a pivotal lid (14) which provides the sloping

upper face and may be pivoted between an open position (shown in figure 5) allowing access to the storage space and a closed position. The lid has an angled cross-section (a cross section of the lid includes angles at each corner of the cross section)

Gaus et al. does not disclose the open position of the lid allowing access to the storage space and at the same time providing a support for the calves of a user.

Japanese Publication 4-60726 teaches an open position of a lid allowing access to a storage space and at the same time providing support for the calves of a user by propping the lid open (see the paragraph before the "Effects of the Utility Model" heading in applicant's provided translation of the reference).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a lid, such as that disclosed by Gaus et al., to have the open position of the lid allow access to the storage space and at the same time provide a support for the calves of a user, as taught by Japanese Publication 4-60726, in order to allow for more adjustment that allows the user of the device to put it in a more comfortable configuration.

Gaus et al. and Japanese Publication 4-60726 do not disclose a layer of carpet on the sloping upper face.

The examiner takes Official Notice that the use of carpet in vehicles is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a sloping upper surface of a foot rest, such as that disclosed above, to have a layer of carpet, as is old and well known in the art, in order to finish the device in aesthetically pleasing way that matches the floor of a vehicle in which the footrest is used.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 5, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaus et al. (US Patent 6,527,327) and Japanese Publication 4-60726 in view of Holweg et al. (4,275,914).

Gaus and Japanese Publication 4-60726 discloses all the limitations of the claims, as applied above, except for the a motorized rack and pinion arrangement, the arrangement operative to move the housing on a pair of rails adapted to be fixed to the floor of the vehicle, and an electric motor.

Holweg et al. teaches a motorized rack and pinion arrangement (25, 24), the arrangement operative to move a device on a pair of rails adapted to be fixed to the floor of a vehicle, and an electric motor (16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the footrest of Gaus with a motorized rack and pinion arrangement, the arrangement operative to move the housing on a pair of rails adapted to be fixed to the floor of the vehicle, and an electric motor, because the technique of providing a powered system for moving a vehicle appurtenance is well known to one of ordinary skill in the art and applying the technique taught by Holweg et al. to the device of Gaus et al. does no more than yielding the predictable result of allowing the footrest to be further adjusted for passenger comfort.

***Allowable Subject Matter***

7. Claims 21-25 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 2, 4, 5, 7, 8, 10, 11, and 20-25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (571) 272-6663. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason S. Morrow/  
Primary Examiner, Art Unit 3612

March 10, 2010